

COMMISSION ON APPELLATE COURT APPOINTMENTS

MINUTES

March 12, 2020

PRESENT: Chief Justice Robert Brutinel, Chair; Laura Ciscomani; Buchanan Davis; Bill Gresser; Tracy Munsil; Gerry Nabours; Jonathan Paton; Larry Suci; and Linley Wilson

ABSENT: Matthew Contorelli; Benjamin Reeves; Kathryn Townsend; and Phil Townsend

Chief Justice Robert Brutinel, Chair, called the meeting to order at 8:32 a.m.

Introductions

Chief Justice Brutinel introduced himself and noted a quorum of the Commission. He welcomed the public and the Commission members.

He explained the purpose of the meeting is to interview for the vacancy the Arizona Court of Appeals, Division One created by the resignation of Judge Diane Johnsen.

Public Comment

Chief Justice Brutinel asked for public comment on the candidates that will be interviewed for the Arizona Court of Appeals position. He explained to the speakers that they are limited to three minutes each and asked them not to repeat comments by previous speakers about the same candidate.

Josh Kolsrud spoke on behalf of Joseph Mikitish.

Diane Johnsen spoke regarding all candidates with Commercial Litigation experience.

Janice Crawford spoke on behalf of Daniel Kiley.

Walter Halicki spoke on behalf of Michael Kielsky.

Jake Dominy spoke on behalf of Cynthia Bailey.

Dan Schaack spoke on behalf of Michael Gottfried.

Rosa Mroz spoke on behalf of Christopher Coury.

Rory Margraf spoke on behalf of Michael Kielsky.

Kate King spoke on behalf of Michael Catlett.

Elizabeth Feldman spoke on behalf of Cynthia Bailey.

Amanda Weaver spoke on behalf of Andrew Jacobs.

Michael Grubbs spoke on behalf of Joshua Rogers.

Rebecca Elliott spoke on behalf of Ann Ching.

Approval of IRC Application

Chief Justice Brutinel asked if the Commission had any additional changes to the IRC application aside from those mentioned at the last meeting. Linley Wilson moved to approve the changes made to the IRC application. The motion was seconded and passed unanimously.

Approval of Minutes

Chief Justice Brutinel asked if any members wished to submit changes or additions to the draft minutes of the February 10th and February 25th screening meetings. It was moved that the minutes be approved as submitted. The motion was seconded and passed unanimously.

Disqualifications and Disclosures

Chief Justice Brutinel asked the Commission if there were additional disqualifications or disclosures since the screening meeting on February 25th and explained rules about what is required of Commission members in terms of disclosure and recruitment.

Linley Wilson reminded the Commission she is recused from voting on Michael Gottfried's application.

Interview Questions

A motion to go to executive session for the purpose of selecting interview questions was made at 9:16 a.m. The motion was seconded and passed unanimously.

The Commission returned to public session at 9:59 a.m.

Due Diligence Reports

Commission members discussed the due diligence findings for Daniel Kiley, Andrew Jacobs, Ann Ching, Joseph Mikitish, Michael Kielsky and Christopher Coury. The Commission agreed to disclose the rest of the reports after lunch.

Candidate Interviews

Chief Justice Brutinel admonished public that in fairness to all candidates, not to share questions to anyone until the end of the interviews.

From 10:30 a.m. to 12:23 p.m. the Commission interviewed Daniel Kiley, Andrew Jacobs, Ann Ching, Joseph Mikitish and Michael Kielsky.

The Commission recessed for lunch at 12:23 p.m.

Chief Justice Brutinel called the meeting back to order at 12:45 p.m.

The Commission continued disclosing the due diligence findings for Sigmund Popko, Michael Gottfried, Cynthia Bailey, Joshua Rogers and Michael Catlett.

Candidate Interviews

From 1:04 p.m. to 2:51 p.m. the Commission interviewed Christopher Coury, Sigmund Popko, Michael Gottfried, Cynthia Bailey, Joshua Rogers and Michael Catlett.

Discussion of Applicants and Interviews and Selection of Nominees

Chief Justice Brutinel reminded the Commission of the mandate the constitution requires of the members when selecting nominations and the requirement of balance of political affiliations among nominees. He explained he would only vote on a candidate in the event of a tie.

The Commission members took turns discussing the candidates' qualifications and interviews.

Chief Justice Brutinel opened the floor for individual nominations to a non-binding list of nominees to be sent to the Governor.

Larry Suciú moved to add Andrew Jacobs to the tentative list. The motion was seconded and passed by a vote of 8-0-1 with Chief Justice Brutinel abstaining.

Jonathan Paton moved to add Cynthia Bailey to the tentative list. The motion was seconded and passed by a vote of 8-0-1 with Chief Justice Brutinel abstaining.

Buchanan Davis moved to add Ann Ching to the tentative list. The motion was seconded and passed by a vote of 8-0-1 with Chief Justice Brutinel abstaining.

Gerry Nabours moved to add Michael Catlett to the tentative list. The motion was seconded and passed by a vote of 8-0-1 with Chief Justice Brutinel abstaining.

Bill Gresser moved to add Joshua Rogers to the tentative list. The motion was seconded and passed by a vote of 8-0-1 with Chief Justice Brutinel abstaining.

Tracy Munsil moved to add Daniel Kiley to the tentative list. The motion was seconded and passed by a vote of 8-0-1 with Chief Justice Brutinel abstaining.

Laura Ciscomani moved to add Christopher Coury to the tentative list. The motion was seconded and passed by a vote of 7-1-1 with Chief Justice Brutinel abstaining.

Larry Suciú moved to add Joseph Mikitish to the tentative list. The motion was seconded and passed by a vote of 6-2-1 with Chief Justice Brutinel abstaining.

Laura Ciscomani moved to add Michael Gottfried to the tentative list. The motion failed by a vote of 4-3-2 with Linley Wilson and Chief Justice Brutinel abstaining.

The Commission took turns discussing the current list and if it met the constitutional requirements.

Jonathan Paton moved to add Sigmund Popko to the tentative list. The motion was seconded and passed by a vote of 6-2-1 with Chief Justice Brutinel abstaining.

After further discussion of the constitutionality of the current list, Jonathan Paton motioned to revote on Michael Gottfried's nomination to the tentative list. The motion passed by a vote of 6-1-2 with Linley Wilson and Chief Justice Brutinel abstaining.

The motion to add Michael Gottfried to the tentative list was seconded and passed by a vote of 7-0-2 with Linley Wilson and Chief Justice Brutinel.

Jonathan Paton moved to close nominations and finalize the tentative list consisting of **Cynthia Bailey, Michael Catlett, Ann Ching, Christopher Coury, Michael Gottfried, Andrew Jacobs,**

Daniel Kiley, Joseph Mikitish, Sigmund Popko and Joshua Rogers and submit to Governor Ducey. The motion was seconded and passed by a vote of 7-0-2 with Linley Wilson and Chief Justice Brutinel abstaining.

Adjournment

Chief Justice Brutinel thanked the members for their hard work. At 3:19 p.m., it was moved that the meeting be adjourned. The motion was seconded and passed unanimously.